

Subject: Grievance Challenging the Declaration of Financial Exigency by the Board of Regents on July 22, 2019

**RECEIVED**

Date: August 2, 2019

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To: James Johnsen, President, University of Alaska system; Cathy Sandeen, Chancellor, University of Alaska

**OFFICE OF THE CHANCELLOR**

We, the undersigned Faculty at the University of Alaska Anchorage, object to the declaration of financial exigency by the Board of Regents of the University of Alaska on July 22, 2019 and submit this grievance in accordance with Board of Regents Policy P04.09.060. That policy requires that our grievance for an erroneous declaration of financial exigency by the Board “be initiated at the Step 3 level as a grievance against the president” within 15 days of such a declaration, and, according to Board Regulation R04.08.070 (D) governing Step 3 grievances, “be timely filed with the chancellor or president, respectively....” Given the choice to file with the chancellor or president, we submit our grievance to you, our chancellor, against UA President Jim Johnsen, so that the subject of our grievance is not also the judge of our grievance.

Due to the errors committed by the Board of Regents explained below, We, the undersigned Faculty do hereby pray for the following relief:

1. That the Board convene a special meeting to consider this Grievance and at that meeting the Board immediately rescind the declaration of exigency voted on the 22<sup>nd</sup> day of July, 2019, due to error;
2. That the Board institute a new plan for consideration of financial exigency if any, and for the development of such a plan, that a working committee is formed, including representatives of the Faculty, of such number that is equal to the Regents or designees of the Regents;
3. That the Board consider such a plan and a future meeting after adequate and appropriate Faculty participation regarding those issues outlined below;
4. That the Board would grant such other and further relief that the Faculty and staff of the University are entitled, under their contracts entered into with the University, as well as such other and further relief to which they are entitled at Law and an Equity under the statutes and laws of the State of Alaska and the United States of America.

We maintain, per Board policy P04.09.060(B), that, “one or more of the four statements required to be contained in the declaration of financial exigency is clearly erroneous and that the error materially affects the declaration,” viz.,

1. The motion fails to “specify which units of the university are affected and provide an explanation of the appropriateness of the choice,” and was therefore, in error (P04.09.030)(B).
2. The motion fails to “specify whether services, programs or positions, or a combination thereof, are to be reduced or eliminated in order to produce the necessary cost reductions,” and fails to “describe the efforts taken in the current and prior fiscal years to reduce costs without the reduction or elimination of filled positions,” and was therefore, in error (P04.09.030)(D).

Affected units are those units that the Board of Regents or the President, acting under the authority of the Board, intend to reduce to achieve financial solvency, including at minimum those units for which a declaration of financial exigency is needed in order to be reduced.

Our interpretation of the word “unit” follows the AAUP, which defines “unit” as an entity that supports a program, or “a related cluster of credit-bearing courses that constitute a coherent body of study within a discipline or set of related disciplines.” And, the AAUP continues, “programs should be recognized academic units that existed prior to the declaration of financial exigency.”

Hence, “unit” in Board Policy P04.09.030(B) should not be construed to mean merely the University of Alaska Anchorage, the University of Alaska Fairbanks, the University of Alaska Juneau or UA Statewide. Board Policy P04.09.030(B) was promulgated in 1997 when those universities were each an accredited university. Therefore, when the policy requires that the Board “specify which units of the university are affected,” we maintain that the Board must specify the colleges, schools, or departments affected within one or some of the accredited universities.

Rather than identifying specific units of the universities affected, the motion instead says, “This declaration affects all administrative units of the University.” Neither the Board of Regents nor the President acting under the authority of the Board, has publicly stated their intention to reduce every department, school and college within every university within the university system.

Board Policy P04.09.030(D) confirms the expectation of greater specificity than the Board’s declaration has provided. That section requires disclosure of specific programs targeted for reduction in a declaration of financial exigency. But at the present time nobody knows what units or programs that the Board and President intend to cut or what filled positions they intend to eliminate. They have not presented any plan naming specific reductions.

Even if we construe “unit” as an accredited university or UA Statewide, in a way favorable to the declaration, we find the “explanation of the appropriateness of the choice,” in subjecting all units to a declaration of financial exigency, in error. The University of Alaska Anchorage has demonstrated that it is an efficient university. Our administration and faculty leadership have demonstrated that we can implement cuts without requiring accelerated removal of faculty across our entire university.

At issue is the absence of a plan. The Board and the President have had ample time to develop a plan with Faculty participation, that identifies specific reductions to meet the reduction in state aid. The Governor of the State of Alaska announced his budget on February 13, 2019, that resulted in a net reduction to state aid amounting to \$135M or close to 15% of the FY19 budget of the University of Alaska system. Although the reduction is significant, clearly the university system does not have to extinguish itself as a result of this cut. Therefore, specificity in planned reductions was required in the declaration, and those specific reductions ought to have been planned with faculty participation, per AAUP requirements, before the declaration was approved.

Furthermore, the Board and President have publicly stated their intention to preserve the status quo and maintain the current schedule of offered courses throughout the university system, through the fall semester, 2019. Since no faculty will be subject to accelerated removal before January 1<sup>st</sup> per these public statements, no cuts until then will require a declaration of financial exigency, which affords still more time for the Board and the President to develop and present a plan that identifies specific reductions in units and programs, with participation by Faculty.

In summary, financial exigency as declared in the motion of July 22 is excessively and unjustifiably broad in its imposition on the entire system, and is improper and premature in having been declared before any plan with faculty participation was developed.

In addition, the motion does not describe efforts taken or planned to be taken in the current year that fall short of meeting the required reductions without eliminating filled positions, and in particular, tenured or tenure-track faculty positions. The AAUP requires that exhaustive efforts are undertaken and communicated to make reductions before tenured and tenure track faculty are removed. Board Policy P04.09.030(D) follows this requirement by the AAUP and manifests the AAUP's intention.

The appropriateness of the exposure of all faculty in all units to accelerated removal, which the declaration on July 22 permits, is called into question by the relatively small expense that they incur. Compensation for tenured faculty constitutes around 10% of the overall budget of the University of Alaska system, and tenured and tenure-track faculty together, around 15% of the overall budget.

In summary, the motion to declare financial exigency should have demonstrated that the Board and President have exhausted all remedies to meet the reduction in state aid, before exposing tenured and tenure track faculty to accelerated removal.

The Board of Regents was advised to avoid these errors foreseen by the Faculty Senate of the University of Alaska Anchorage. In its report dated July 20 that was sent to all Regents, the Faculty Senate reminded the Board that according to the AAUP, faculty should participate in determining the planned reductions that will require financial exigency, before a declaration of financial exigency.

The Faculty Senate notified the Board that "we are unaware of any plan to make any specific cuts, whether requiring financial exigency or not," and further, that, "A declaration of financial exigency before such a plan is presented is simply a general grant of *carte blanche* power, and not the grant of a powerful tool for a specific purpose. A system-wide, year-long declaration essentially removes tenure system-wide for at least one year." As a result of this declaration, all faculty in all units are subject to accelerated removal, tenure notwithstanding, which is unnecessary to achieve financial solvency.

The Faculty Senate quoted the AAUP's *Recommended Institutional Regulations on Academic Freedom and Tenure* (4. Termination of Appointments by the Institution, Financial Exigency), which provides one authoritative source on planning for financial exigency.

Precedent is another authoritative source on planning for financial exigency. For example, faced with a 32% cut in state aid, similar in magnitude to the cut to our state aid (41%), the Louisiana State University System in 2015-2016 considered financial exigency, planned with faculty participation, and produced a plan before preparing to vote on a declaration of financial exigency. The plan specified the affected units within the system, the number of positions targeted for reduction, and projected cost savings.

Also similar to our case, the Louisiana State University System had already been subjected to cuts in state aid prior to FY16 and that loss in state aid was attributed to the same cause as our own case, a decline in state revenues from oil production. Their experience with impending financial exigency is well documented in the public domain.

The AAUP as well as sources in the public domain supply many examples of properly and improperly declared financial exigency, in support of our determination that the Board has erred.

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